

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
No. 5:09-CR-196-D  
No. 5:11-CV-617-D

MONTARIUS R. SMITH,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

**ORDER**

The United States has withdrawn its opposition to Montarius R. Smith's supplemental motion to vacate his conviction [D.E. 53]. The court has reviewed the entire record and GRANTS the supplemental motion to vacate his conviction [D.E. 51]. Smith's conviction in this case [D.E. 20] is VACATED. The remaining motions [D.E. 32, 36, 44, 52, 54] are DISMISSED as moot. The United States shall release Smith.

SO ORDERED. This 29 day of October 2012.

  
JAMES C. DEVER III  
Chief United States District Judge